

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
GREAT FALLS DIVISION

ROBERT A. SHEPHERD,

Petitioner,

vs.

ASSISTANT WARDEN FENDER;  
ATTORNEY GENERAL OF THE  
STATE OF MONTANA,

Respondents.

CV 14-55-GF-DLC

ORDER

**FILED**

SEP 22 2014

Clerk, U.S. District Court  
District Of Montana  
Missoula

United States Magistrate Judge R. Keith Strong entered Findings and Recommendations on August 25, 2014 recommending that Petitioner's motion to proceed in forma pauperis be denied and that Petitioner be ordered to pay the \$5.00 filing fee. Petitioner did not timely object to the Findings and Recommendations, and so waived the right to *de novo* review of the record. 28 U.S.C. § 636(b)(1). The Court will therefore review the record for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d


422, 427 (9th Cir. 2000). There is no clear error in Judge Strong's Findings and Recommendations.

There is no clear error in Judge Strong's finding that Shepherd is able to pay the \$5.00 filing fee for his petition. This Court received payment of Shepherd's \$5.00 fee on August 29, 2014.

Accordingly, IT IS ORDERED that Judge Strong's Findings and Recommendations (doc. 5) are ADOPTED.

IT IS FURTHER ORDERED that Petitioners's Motion for Leave to Proceed in forma pauperis (doc. 2) is DENIED.

Dated this 22<sup>nd</sup> day of September, 2014.

  
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Dana L. Christensen, Chief Judge  
United States District Court